

**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA**

**STANDING ORDER RE: DISCOVERY AND DISPUTE PROCEDURES FOR
CASES ASSIGNED OR REFERRED TO MAG. JUDGE MARIA-ELENA JAMES**

This standing order informs a *pro se* party and/or counsel of the specific procedures for all cases, except those categories of cases listed in Federal Rule of Civil Procedure ("FRCP") 26(a)(1)(E), assigned to Magistrate Judge Maria-Elena James for trial or referred for purposes of discovery. All parties and counsel are required to follow these procedures.

1. Parties shall propound disclosures and discovery in accordance with FRCP 26 and 30-36, and Civil Local Rules 26, 30, 33, 34 and 36. A copy of the Civil Local Rules for the Northern District of California is available at the Clerk's Office or for public viewing at the Court's internet site - <http://www.cand.uscourts.gov>. All requests for protective orders must comply with Civil Local Rule 79-5. Pursuant to FRCP 30(a)(2), no more than ten depositions may be taken except by order of the Court. Pursuant to FRCP 33(a) and Civil Local Rule 33-3, no more than 25 interrogatories shall be propounded except pursuant to stipulation or order of the Court.

2. The parties shall meet and confer regarding their initial disclosures pursuant to FRCP 26(f) and shall make disclosures pursuant to FRCP 26(a)(1)(E). The parties shall supplement their initial disclosures when required under FRCP 26(e)(1).

3. The Court will not consider a formal motion to compel under Civil Local Rule 7. Instead, counsel must meet and confer **in person** for the purpose of resolving all disclosure and/or discovery disputes. Thereafter, if any disputes remain, counsel shall draft and file a jointly signed letter which (1) attests that prior to filing the joint letter the parties met and conferred **in person** for purposes of resolving the dispute; (2) sets forth the unresolved dispute and any pertinent factual background; and (3) states each party's position as supported by appropriate legal authority. The joint letter shall be signed by both parties, shall be limited to

1 five pages and may not be accompanied by exhibits or affidavits other than exact copies of
2 disputed interrogatories, requests for production of documents and/or responses, privilege logs,
3 and relevant deposition testimony. The parties need not state all disputes in one letter; rather, it
4 is preferable that the parties file a separate letter for each dispute.

5 4. In the event that counsel is unable to meet and confer with a party or opposing counsel
6 as directed above, counsel shall file a written request for a telephonic conference for the
7 purpose of enforcing the Court's requirement to meet and confer, or for the Court to fashion an
8 alternative procedure which satisfies the meet and confer requirement. Counsel's written
9 request shall state (1) three agreed upon prospective times and dates for the telephonic
10 discovery conference to take place, (2) the anticipated length of the conference, and (3) the
11 phone numbers at which counsel shall be contacted on the day of the conference. A copy of the
12 written request shall be served on opposing counsel and verification of said service shall be
13 filed with the request. Additionally, counsel shall file a declaration which states any attempt to
14 meet and confer and the reasons for the inability to comply with this standing order. Counsel
15 may attach exhibits to support the declaration, but the declaration and exhibits combined may
16 not exceed seven pages. The Court will not excuse a party from the requisite in-person meeting
17 unless good cause is shown.

18 5. In the event that the parties are participating in a deposition or a site inspection and a
19 discovery dispute arises regarding the deposition and/or site inspection, the parties may contact
20 Judge James' Courtroom Deputy, Brenda Tolbert, at 415-522-4708, to inquire whether Judge
21 James is available to resolve the parties' impending dispute telephonically. In the event that
22 Judge James is unavailable or the parties are unable to contact Judge James' courtroom deputy
23 for any reason, the parties shall proceed follow the procedures for requesting a telephonic
24 conference as set forth in paragraph 4 above. The deposition or site inspection shall
25 nevertheless proceed with objections noted for the record.

26 6. In the event that a matter is to be taken off calender, or continued to a further date, a
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1 written stipulation signed by the parties shall be filed with the Court for approval.

2 7. Other than scheduling matters, pursuant to Civil L. R. 11-4(c), a party shall not contact
3 the Court *ex parte* without prior notice to the opposing party. Further, all communications or
4 questions to the Court shall be presented to the Court in writing and shall be properly filed.

5 Parties must certify to the Court that all parties were served a copy of the written
6 communication. Unless expressly requested by the Court, documents should not be faxed to
7 chambers but should be filed or lodged in accordance with the Local Rules of Court.

8 8. Parties shall not mail or fax to the Court copies of correspondence from a party
9 regarding any dispute pending before the Court.

10 9. Motions for sanctions shall be filed separately, pursuant to FRCP 37, and Civil Local
11 Rules 7 and 37-3. Any party seeking an award of attorney's fees or other expenses in
12 connection with a motion shall file a declaration with the opposition or reply memorandum
13 which itemizes with particularity the fees and expenses claimed.

14 10. In all "E-Filing" cases, in addition to filing papers electronically, the parties shall lodge
15 with chambers a printed copy of the papers by noon of the next court day after filing. These
16 printed copies shall be marked "Chambers Copy" and shall be submitted to the Clerk's Office
17 in an envelope clearly marked "Magistrate Judge Maria-Elena James" and include the case
18 number. Parties shall not file a paper copy of any document with the Clerk's Office that has
19 already been filed electronically.

20 The failure of a party to abide by Judge James' Discovery and Disclosure Dispute
21 Procedures may result in sanctions, pursuant to FRCP 16(f) and Civil Local Rule 37-3.

22 **IT IS SO ORDERED.**

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24 Dated: May 31, 2006



MARIA ELENA JAMES
United States Magistrate Judge